

Senate Bill No. 1019

Passed the Senate January 29, 1998

Secretary of the Senate

Passed the Assembly April 16, 1998

Chief Clerk of the Assembly

This bill was received by the Governor this ____ day
of _____, 1998, at ____ o'clock __M.

Private Secretary of the Governor

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CHAPTER ____

An act to amend Section 44977 of, and to add Section 44978.1 to, the Education Code, relating to school employees.

LEGISLATIVE COUNSEL'S DIGEST

SB 1019, Alpert. School employees: absences.

Existing law precludes the amount deducted from the salary of a school district employee employed in a position requiring certification qualifications due to absence on account of illness or accident for a period of 5 school months or less from exceeding the sum actually paid to a substitute employee employed to fill his or her position.

This bill would condition this prohibition on continued absence after the employee has exhausted all available sick leave. The bill would require that the 5-month period and the sick leave run consecutively and would limit an employee to one 5-month period per illness or accident.

This bill would require placement of the certificated employee, who has exhausted all available sick leave and continues to be absent on account of illness or accident and who is not medically able to resume his or her duties, on a reemployment list for a period of 24 months if the employee is on probationary status, or for a period of 39 months if the employee is on permanent status, unless the employee is placed in another position. The bill would require that during the 24 or 39 month period, the certificated employee be returned to employment in a position for which he or she is credentialed and qualified when the employee is medically able.

By requiring that school district to comply with these differential pay and reemployment provisions, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund



to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 44977 of the Education Code is amended to read:

44977. (a) During each school year, when a person employed in a position requiring certification qualifications has exhausted all available sick leave, including all accumulated sick leave, and continues to be absent from his or her duties on account of illness or accident for an additional period of five school months, whether or not the absence arises out of or in the course of the employment of the employee, the amount deducted from the salary due him or her for any of the additional five months in which the absence occurs shall not exceed the sum that is actually paid a substitute employee employed to fill his or her position during his or her absence or, if no substitute employee was employed, the amount that would have been paid to the substitute had he or she been employed. The school district shall make every reasonable effort to secure the services of a substitute employee.

(b) For purposes of subdivision (a):

(1) The sick leave, including accumulated sick leave, and the five-month period shall run consecutively.

(2) An employee shall not be provided more than one five-month period per illness or accident. However, if a school year terminates before the five-month period is exhausted, the employee may take the balance of the five-month period in a subsequent school year.

(c) The governing board of every school district shall adopt a salary schedule for substitute employees. The salary schedule shall indicate a salary for a substitute for



all categories or classes of certificated employees of the district.

(d) Excepting in a district the governing board of which has adopted a salary schedule for substitute employees of the district, the amount paid the substitute employee during any month shall be less than the salary due the employee absent from his or her duties.

(e) When a person employed in a position requiring certification qualifications is absent from his or her duties on account of illness for a period of more than five school months, or when a person is absent from his or her duties for a cause other than illness, the amount deducted from the salary due him or her for the month in which the absence occurs shall be determined according to the rules and regulations established by the governing board of the district. The rules and regulations shall not conflict with rules and regulations of the State Board of Education.

(f) Nothing in this section shall be construed so as to deprive any district, city, or city and county of the right to make any reasonable rule for the regulation of accident or sick leave or cumulative accident or sick leave without loss of salary for persons acquiring certification qualifications.

(g) This section shall be applicable whether or not the absence from duty is by reason of a leave of absence granted by the governing board of the employing district.

SEC. 2. Section 44978.1 is added to the Education Code, to read:

44978.1. When a certificated employee has exhausted all available sick leave, including accumulated sick leave, and continues to be absent on account of illness or accident for a period beyond the five-month period provided pursuant to Section 44977, and the employee is not medically able to resume the duties of his or her position, the employee shall, if not placed in another position, be placed on a reemployment list for a period of 24 months if the employee is on probationary status, or for a period of 39 months if the employee is on permanent status. When the employee is medically able, during the 24- or 39-month period, the certificated employee shall be



returned to employment in a position for which he or she is credentialed and qualified. The 24-month or 39-month period shall commence at the expiration of the five-month period provided pursuant to Section 44977.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

Approved _____, 1998

Governor

